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Attorneys for Plaintiff
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CR. NO. 03-00179-03 HG
)	
Plaintiff,)	NOTICE TO COURT RE: DEFENSE
)	<u>EX PARTE</u> AGENCY REQUEST AS TO
)	SITUS OF DEFENDANT'S
vs.)	INCARCERATION; EXHIBIT "A";
)	CERTIFICATE OF SERVICE
)	
JOSEPH GOMES,	(03))	
)	
Defendant.)	
)	
)	
)	

NOTICE TO COURT RE: DEFENSE EX PARTE AGENCY
REQUEST AS TO SITUS OF DEFENDANT'S INCARCERATION

A. INTRODUCTION

On June 11, 2008, Defendant JOSEPH GOMES filed (under seal) a motion styled as a "Motion for Medical Evaluation and Treatment," as an ancillary matter to his above-referenced

criminal case. Among other matters, this defense motion seeks a ruling from the Court as to possible re-designation of a facility where GOMES is to serve his sentence. The defense motion also requests that GOMES remain at FDC Honolulu and not be returned to USP Victorville. The ruling(s) sought by Defendant GOMES thus concern defense request(s) as to the situs of GOMES' incarceration.

Responsive and supplemental pleadings were thereafter filed by the parties (dated June 20, 2008, July 7, 2008, and July 22, 2008), and the matter has been submitted to the Court for a ruling.

B. NOTICE TO COURT RE: DEFENSE EX PARTE WRITTEN MEMORANDUM

Undersigned Government counsel has recently learned that during the pendency of this motion, defense counsel Richard Kawana initiated ex parte contact with the United States Marshal, concerning the situs of Defendant GOMES' incarceration. In short, Mr. Kawana submitted a written memorandum to the U.S. Marshal requesting that GOMES remain incarcerated in Hawaii until the Ninth Circuit decides his (still pending) direct appeal. A copy of this memorandum is annexed hereto as Exhibit "A".

Mr. Kawana did not provide a copy of his memorandum to the U.S. Marshal to Government counsel. It also appears that a
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copy of the memorandum was not provided to Court, notwithstanding the Defendant's motion (as to situs of incarceration) pending before Judge Gillmor.

DATED: August 6, 2008, at Honolulu, Hawaii.

Respectfully submitted,

EDWARD H. KUBO, JR.
United States Attorney
District of Hawaii

By /s/ Louis A. Bracco
LOUIS A. BRACCO
Assistant U.S. Attorney

Attorneys for Plaintiff
UNITED STATES OF AMERICA

CERTIFICATE OF SERVICE

I hereby certify that, on the dates and by the methods of service noted below, a true and correct copy of the foregoing was served on the following at their last known address:

Served Electronically by CM/ECF:

RICHARD S. KAWANA, ESQ. rskawana@prodigy.net August 6, 2008

Attorney for Defendant JOSEPH GOMES (03)

Served by Hand-Delivery:

Rosanne T. Donohoe August 6, 2008
U. S. PROBATION OFFICE
U.S. Courthouse, Room 2-215
300 Ala Moana Boulevard
Honolulu, HI 96850

U. S. Marshal Service August 6, 2008
U.S. Courthouse, Room C-101
300 Ala Moana Boulevard
Honolulu, HI 96850

DATED: August 6, 2008, at Honolulu, Hawaii.

/s/ Shelli Ann H. Mizukami